

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.	)	CASE NO. 1:08 CV 2755
	)	
Plaintiff,	)	JUDGE LESLEY WELLS
	)	
v.	)	
	)	
SAP AMERICA, INC., et al.	)	
	)	
Defendants.	)	
	)	

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**PLAINTIFF’S RESPONSES TO THE SAP DEFENDANTS’ OBJECTIONS TO  
PLAINTIFF’S TRIAL WITNESS LIST**

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Plaintiff Hodell-Natco Industries, Inc. (“Hodell”), through undersigned counsel, submits the following Responses to the Objections of Defendants SAP America, Inc. and SAP AG (“Defendants” or “SAP”) to Hodell’s Trial Witness List. [ECF #226].

1. Jaime Clark: Hodell responds that Mr. Clark’s testimony is admissible for the reasons set forth in Hodell’s separately-filed Brief in Opposition to the SAP Defendants’ Motion *in Limine* No. 2.
2. Udi Ziv: Mr. Ziv’s testimony is relevant and admissible for the reasons set forth in Hodell’s separately-filed Brief in Opposition to the SAP Defendants’ Motion *In Limine* No. 5. SAP has waived its right to assert objections to Mr. Ziv’s testimony by consistently referring to Mr. Ziv as its “former employee” during these proceedings, by failing to raise the issues asserted in its Motion *in Limine* during the summary judgment stage, and by failing to object to the portions of Judge White’s Report and Recommendation [ECF #182] which relied in part upon Mr. Ziv’s communications and imputation of his knowledge to the SAP Defendants in recommending that summary judgment be denied. SAP failed to object to these findings by Judge White and this Court adopted his Report & Recommendation in whole. [ECF #192]. SAP may not relitigate these issues through a motion *in limine*, nor may it raise them as issues in any appeal.

3. Dr. G. William Kennedy: Dr. Kennedy's testimony is relevant and admissible pursuant to Fed.R.Evid. 702, and SAP has failed to object to Dr. Kennedy's qualifications or to the methodology Dr. Kennedy employed in this case. SAP's objections go to the weight of Dr. Kennedy's testimony, not its admissibility, and SAP may cross-examine Dr. Kennedy at trial. Hodell incorporates its prior filings on this issue [ECF Nos. 180, 202 and 205] and Hodell's further response brief which is due October 12, 2014.
4. SAP Custodian of Records: Hodell reserves the right to request that the Court permit it to present trial testimony of one or more SAP records custodians in the event such testimony becomes necessary.
5. Damon Hacker: Mr. Hacker performed the document collection and analysis for the LSi Defendants' electronic document production. The SAP Defendants have been aware of Mr. Hacker's involvement for some time. Hodell does not expect that it will need to present testimony from Mr. Hacker at trial, but reserves the right to do so as necessary.

Hodell specifically reserves the right to supplement or amend these Responses to the extent necessary.

Respectfully submitted,

/s/ P. Wesley Lambert  
P. WESLEY LAMBERT (0076961)  
wlambert@koehlerneal.com  
KOEHLER NEAL LLC  
3330 Erieview Tower, 1301 East 9th Street  
Cleveland, Ohio 44114  
(216) 539-9370/(216) 916-4369 (facsimile)  
*Attorneys for Plaintiff Hodell-Natco  
Industries, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of October 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. A copy of these pleadings will also be emailed and sent by federal express to the following parties:

**LSI-Lowery Systems, Inc.**  
c/o Chris Kellett  
cpk@carmodymacdonald.com

**IBIS Group, Inc**  
1800 W. Hawthorne Lane, Suite N  
W. Chicago, IL 60185

/s/ P. Wesley Lambert  
P. WESLEY LAMBERT (0076961)